

### **REMARKS**

Claims 2-16, 18-26, and 31-52 are now pending in the application. Claim 1 is canceled by this amendment. Claim 52 is amended into independent format by this amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### **ALLOWABLE SUBJECT MATTER**

The Examiner states that Claims 2-16, 18-26, 31-42 and 45-51 are allowed.

Claim 52 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for the indication of allowance of Claims 2-16, 18-26, 31-42 and 45-51.

Claims 43 and 44 have been amended to depend from allowed Claim 31 and should also be in condition for allowance.

Claim 52 has been amended to include all of the limitations of Claim 1, and should also be in condition for allowance.

Applicants submit that no new search is necessitated by this amendment as all of the claims currently pending have been previously indicated as allowed or allowable.

#### **REJECTION UNDER 35 U.S.C. § 112**

Claims 43 and 44 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Claims 43 and 44 have been amended to depend from allowable Independent claim 31, directly or indirectly. Accordingly, Applicants submit that Claims 43 and 44 are definite and should also be in condition for allowance.

#### **REJECTION UNDER 35 U.S.C. § 102 AND 103**

Claims 1 and 51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Penney et al. "Validation of a two- or three-dimensional registration algorithm for aligning preoperative CT images and intraoperative fluoroscopy images" ("Penney") in view of the Series 9600 Mobile Digital Imaging System (Series 9600), U.S. Patent No. 6,118,845 issued to Simon et al. ("Simon") and U.S. Patent No. 6,381,485 issued to Hunter et al. ("Hunter"). This rejection is respectfully traversed.

Claim 1 has been canceled. Thus, the rejection thereof is rendered moot and should be withdrawn.

Applicants submit that the rejection of Claim 51 is a clerical error in the Office Action. Claim 51 depends from allowed Claim 48. Claim 51 is also indicated as allowed. Thus, Applicants request that the rejection thereto be withdrawn.

**COMMENTS ON EXAMINER'S REASONS FOR INDICATION OF ALLOWABLE SUBJECT MATTER**

Applicants respectfully acknowledge the Examiner allowing this application.

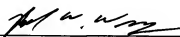
With respect to the Examiner's Reasons for Indication of Allowable Subject Matter, however, Applicants respectfully submit that the elements that the Examiner asserts forms the basis for allowing this application too narrowly define the teachings in the present application that provide the basis for the scope of the Claims. In fact, Applicants respectfully submit that the elements relied upon by the Examiner, and other elements found in the claims, could be characterized more broadly, and in different combinations and sub-combinations and still include patentable subject matter. Further, Applicants' Claims differ from the prior art of record by features other than the limitations and elements cited by the Examiner.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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